

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

In response to Appellants' Appeal Brief dated 7/9/2007, an appeal conference was held. Appellants' argument pertaining to positional isomers was not found to be persuasive and there are several case laws including those cited by the examiner to support validity of obviousness of positional isomers. Applicants' argument that the instant compounds have cannabinoid activity, which is a unexpected/ superior property, was also not persuasive. The 103 rejection is applied to compounds and composition of the compounds, not to method use claims. A compound is a compound irrespective of its uses. The structural make-up of the compound remains the same irrespective of its uses.

Based on the suggestion of the appeal conferees and upon further consideration it was noted that Gudmundsson did not exemplify a positional isomer of the instant compound and that there are two differences between instant compounds and the reference compounds. The closest reference compounds, examples 9-11, differed from the instant compounds in having amino-cycloalkyl in the 4-position of pyrazolo[1,5-a]triazine ring, while the instant compounds required a cyclic amine of formula IA at that position. In addition, instant claims does not permit a heteroaryl at 8-position of pyrazolo[1,5-a]triazine ring. If the 4-position of reference were to carry a cyclic amino group, then examples 9-11 would be positional isomers. But such is not the case. Although examples 30 and 31 do have a cyclic amino group at the 4-position, they are pyrazolo[1,5-a]pyrimidine compounds and thus have more than one variation. That is

one need to introduce an N in the ring and switch the substituents in 7 and 8 position to arrive at instant compounds. In re *Takeda Chemical vs. Alphapharm* (Fed Cir., No. 06-1329, 2007), pointed out by the appellants, seems to preclude motivation for such variations. Hence, 103 rejection of claims 1-6, 11-14, 21-23, 28-31 and 97 over Gudmundsson et al., made has been deemed as obviated.

Therefore, the examiner noted that the claims 1-36, 56, 58-80, 97, 101, 108, 120 and 121 would be in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571) 272-0662. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is James O. Wilson, whose telephone number is 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAG. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).

/Venkataraman Balasubramanian/

Primary Examiner, Art Unit 1624

11/26/2007